

116TH CONGRESS  
2D SESSION

# S. 5011

To codify the Minority Business Development Agency of the Department of Commerce, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

DECEMBER 11, 2020

Mrs. LOEFFLER (for herself, Mr. CRAPO, and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To codify the Minority Business Development Agency of the Department of Commerce, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

**3 SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Economic Empower-  
5       ment for Underserved Communities Act”.

**6 SEC. 2. PURPOSES.**

7       The purposes of this Act, and the amendments made  
8       by this Act, are to—

9                   (1) ensure that underserved communities have  
10          access to capital to promote economic revitalization;

1                         (2) respond to the unprecedented loss of jobs  
2                         and minority-owned businesses as a result of the  
3                         COVID–19 pandemic; and

4                         (3) further encourage long-term investments in  
5                         low-income and minority communities.

6 **SEC. 3. SUPPORTING THE CDFI FUND.**

7                         (a) APPROPRIATIONS.—Of the amounts made avail-  
8                         able to the Secretary of the Treasury under section 4027  
9                         of the CARES Act (15 U.S.C. 9061), \$7,000,000,000  
10                        shall be made available to the Fund to carry out this sec-  
11                        tion.

12                        (b) SET ASIDES.—Of the amounts made available  
13                        under subsection (a), the following amounts shall be set  
14                        aside:

15                        (1) Up to \$1,000,000,000, to remain available  
16                        until September 30, 2022, to support, prepare for,  
17                        and respond to the economic impact of the  
18                        coronavirus, provided that the Fund shall—

19                                 (A) provide grants funded under this para-  
20                         graph using a formula that takes into account  
21                         criteria such as certification status, financial  
22                         and compliance performance, portfolio and bal-  
23                         ance sheet strength, a diversity of CDFI busi-  
24                         ness model types, and program capacity, of  
25                         which not less than \$30,000,000 may be for

1 grants to benefit Native American, Native Ha-  
2 waiian, and Alaska Native communities; and

3 (B) make funds available under this para-  
4 graph not later than 60 days after the date of  
5 enactment of this Act.

6 (2) Up to \$4,000,000,000, to remain available  
7 until September 30, 2025, to provide grants to  
8 CDFIs—

9 (A) to expand lending or investment activ-  
10 ity in low- or moderate-income minority commu-  
11 nities and to minorities that have significant  
12 unmet capital or financial services needs; and

13 (B) using a formula that takes into ac-  
14 count criteria such as certification status, finan-  
15 cial and compliance performance, portfolio and  
16 balance sheet strength, a diversity of CDFI  
17 business model types, and program capacity, as  
18 well as experience making loans and invest-  
19 ments to those areas and populations identified  
20 in this paragraph.

21 (3) Up to \$500,000,000, to remain available  
22 until expended, for technical assistance, technology,  
23 and training under sections 108(a)(1)(B) and 109,  
24 respectively, of the Community Development Bank-  
25 ing and Financial Institutions Act of 1994 (12

1 U.S.C. 4707(a)(1)(B), 4708), with a preference for  
2 minority-led and minority-owned CDFIs that pri-  
3 marily serve low- and moderate-income communities.

4 (4) Up to \$500,000,000, to remain available  
5 until expended, to provide grants to recipients that  
6 are minority-led and minority-owned CDFIs.

7 (c) ADMINISTRATIVE EXPENSES.—Funds made  
8 available under this section may be used for administrative  
9 expenses, including administration of Fund programs and  
10 the New Markets Tax Credit Program under section 45D  
11 of the Internal Revenue Code of 1986.

12 (d) EMERGENCY DESIGNATION.—

13 (1) IN GENERAL.—The amounts provided under  
14 this section are designated as an emergency require-  
15 ment pursuant to section 4(g) of the Statutory Pay-  
16 As-You-Go Act of 2010 (2 U.S.C. 933(g)).

17 (2) DESIGNATION IN SENATE.—In the Senate,  
18 this section is designated as an emergency require-  
19 ment pursuant to section 4112(a) of H. Con. Res.  
20 71 (115th Congress), the concurrent resolution on  
21 the budget for fiscal year 2018.

22 (e) DEFINITIONS.—In this section:

23 (1) CDFI.—The term “CDFI” means a com-  
24 munity development financial institution, as defined  
25 in section 103 of the Community Development

1 Banking and Financial Institutions Act of 1994 (12  
2 U.S.C. 4702).

11 SEC. 4. PERMANENT EXTENSION OF NEW MARKETS TAX  
12 CREDIT.

13 (a) EXTENSION.—

(b) INFLATION ADJUSTMENT.—Subsection (f) of section 45D of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

#### 24 “(4) INFLATION ADJUSTMENT.—

1                 “(A) IN GENERAL.—In the case of any cal-  
2 endar year beginning after 2020, the dollar  
3 amount in paragraph (1)(G) shall be increased  
4 by an amount equal to—

5                     “(i) such dollar amount, multiplied by  
6                     “(ii) the cost-of-living adjustment de-  
7 termined under section 1(f)(3) for the cal-  
8 endar year, determined by substituting  
9 ‘calendar year 2019’ for ‘calendar year  
10 2016’ in subparagraph (A)(ii) thereof.

11                 “(B) ROUNDING RULE.—Any increase  
12 under subparagraph (A) which is not a multiple  
13 of \$1,000,000 shall be rounded to the nearest  
14 multiple of \$1,000,000.”.

15                 (c) ALTERNATIVE MINIMUM TAX RELIEF.—Subpara-  
16 graph (B) of section 38(c)(4) of the Internal Revenue  
17 Code of 1986 is amended—

18                     (1) by redesignating clauses (vii) through (xii)  
19 as clauses (viii) through (xiii), respectively, and  
20                     (2) by inserting after clause (vi) the following  
21 new clause:

22                     “(vii) the credit determined under sec-  
23 tion 45D, but only with respect to credits  
24 determined with respect to qualified equity

1                   investments (as defined in section 45D(b))  
2                   initially made after December 31, 2019.”.

3                   (d) EFFECTIVE DATES.—

4                   (1) IN GENERAL.—Except as provided in para-  
5                   graph (2), the amendments made by this section  
6                   shall apply to taxable years beginning after Decem-  
7                   ber 31, 2019.

8                   (2) ALTERNATIVE MINIMUM TAX RELIEF.—The  
9                   amendments made by subsection (c) shall apply to  
10                  credits determined with respect to qualified equity  
11                  investments (as defined in section 45D(b) of the In-  
12                  ternal Revenue Code of 1986) initially made after  
13                  December 31, 2020.

14                  **SEC. 5. OPPORTUNITY ZONE PROGRAM REPRESENTATIVES.**

15                  Section 4 of the Small Business Act (15 U.S.C. 633)  
16                  is amended by adding at the end the following:

17                  “(i) OPPORTUNITY ZONE PROGRAM REPRESEN-  
18                  TIVES.—

19                  “(1) IN GENERAL.—The Administrator,  
20                  through each district office of the Administration,  
21                  small business development center, women’s business  
22                  center described in section 29, chapter of the Service  
23                  Corps of Retired Executives authorized by section  
24                  8(b)(1), and Veteran Business Outreach Center de-  
25                  scribed in section 32, shall train and educate field

1       representatives on investments in areas that have  
2       been designated as qualified opportunity zones under  
3       section 1400Z–1 of the Internal Revenue Code of  
4       1986.

5           “(2) DUTIES.—A field representative trained  
6       under paragraph (1) shall—

7              “(A) serve as a point of contact for ques-  
8       tions and resources on the investments de-  
9       scribed in paragraph (1) for the area served by  
10       the district office, small business development  
11       center, women’s business center, chapter of the  
12       Service Corps of Retired Executives, and Vet-  
13       eran Business Outreach Center, as applicable;

14              “(B) educate elected leaders within such  
15       area on those investments; and

16              “(C) hold an annual seminar in each State  
17       to educate managers of qualified opportunity  
18       funds (as defined in section 1400Z–2(d) of the  
19       Internal Revenue Code of 1986), qualified op-  
20       portunity zone businesses (as defined in such  
21       section), State and local government officials,  
22       accountants, lawyers, and other interested per-  
23       sons on how to benefit from such investments.

24           “(3) REPORT.—

1                 “(A) IN GENERAL.—Not later than 1 year  
2                 after the date of enactment of this subsection,  
3                 and annually thereafter through 2026, the di-  
4                 rector of each regional office of the Administra-  
5                 tion shall submit to the Administrator a report  
6                 on the success of the efforts of the field rep-  
7                 resentatives trained under paragraph (1), in-  
8                 cluding any problems faced by, and best prac-  
9                 tices of, the field representatives.

10                 “(B) SUBMISSION BY ADMINISTRATOR.—  
11                 The Administrator shall submit each report re-  
12                 ceived under subparagraph (A) to the Com-  
13                 mittee on Small Business and Entrepreneurship  
14                 of the Senate and the Committee on Small  
15                 Business of the House of Representatives.”.

16 **SEC. 6. SMALL BUSINESS INVESTMENT COMPANY PRO-**  
17                 **GRAM.**

18                 (a) IN GENERAL.—Part A of title III of the Small  
19                 Business Investment Act of 1958 (15 U.S.C. 681 et seq.)  
20                 is amended—

21                 (1) in section 302(a) (15 U.S.C. 682(a))—  
22                         (A) in paragraph (1)—  
23                                 (i) in subparagraph (A), by striking  
24                                 “or” at the end;

4 (iii) by adding at the end the fol-  
5 lowing:

6               “(C) \$20,000,000, adjusted every 5 years  
7               for inflation, with respect to each licensee au-  
8               thorized or seeking authority to sell bonds to  
9               Administration as a participating investment  
10              company under section 321.”; and

11 (2) by adding at the end the following:

## 12 “SEC. 321. SMALL BUSINESS AND DOMESTIC PRODUCTION

## **RECOVERY INVESTMENT FACILITY.**

14        "(a) DEFINITIONS.—In this section:

15               “(1) COVERED POPULATION CENSUS TRACT.—  
16       The term ‘covered population census tract’ means a  
17       population census tract for which—

18                 “(A) in the case of a tract that is not lo-  
19                 cated within a metropolitan area, the median  
20                 income does not exceed 80 percent of the state-  
21                 wide (or, with respect to a possession or terri-  
22                 tory of the United States, the possession- or  
23                 territory-wide) median family income; or

24                         “(B) in the case of a tract that is located  
25                         within a metropolitan area, the median family

1           income does not exceed 80 percent of the greater  
2           of the statewide (or, with respect to a possession  
3           or territory of the United States, the possession- or territory-wide) median family income  
4           and the metropolitan area median family income.

7           “(2) ELIGIBLE SMALL BUSINESS CONCERN.—

8           The term ‘eligible small business concern’—

9                 “(A) means a small business concern  
10              that—

11                 “(i)(I) except as provided in sub-  
12              clauses (II), (III), and (IV), had gross re-  
13              ceipts during the first or second quarter in  
14              2020 that are not less than 50 percent less  
15              than the gross receipts of the entity during  
16              the same quarter in 2019;

17                 “(II) if the entity was not in business  
18              during the first or second quarter of 2019,  
19              but was in business during the third and  
20              fourth quarter of 2019, had gross receipts  
21              during the first or second quarter of 2020  
22              that are less than 50 percent of the  
23              amount of the gross receipts of the entity  
24              during the third or fourth quarter of 2019;

1                     “(III) if the entity was not in business  
2                     during the first, second, or third quarter of  
3                     2019, but was in business during the  
4                     fourth quarter of 2019, had gross receipts  
5                     during the first or second quarter of 2020  
6                     that are less than 50 percent of the  
7                     amount of the gross receipts of the entity  
8                     during the fourth quarter of 2019; or

9                     “(IV) if the entity was not in business  
10                    during 2019, but was in operation on Feb-  
11                    ruary 15, 2020, had gross receipts during  
12                    the second quarter of 2020 that are less  
13                    than 50 percent of the amount of the gross  
14                    receipts of the entity during the first quar-  
15                    ter of 2020;

16                     “(ii) is a manufacturing business that  
17                     is assigned a North American Industry  
18                     Classification System code beginning with  
19                     31, 32, or 33 at the time at which the  
20                     small business concern receives an invest-  
21                     ment from a participating investment com-  
22                     pany under the facility; or

23                     “(iii) is located in a small business  
24                     low-income census tract; and

25                     “(B) does not include—

1                     “(i) an issuer, the securities of which  
2                     are listed on an exchange registered a na-  
3                     tional securities exchange under section 6  
4                     of the Securities Exchange Act of 1934  
5                     (15 U.S.C. 78f);

6                     “(ii) any entity that—

7                         “(I) is a type of business concern  
8                     described in paragraph (b), (c), (d),  
9                     (e), (f), (h), (l), (m), (p), (q), (r), or  
10                     (s) of section 120.110 of title 13,  
11                     Code of Federal Regulations, or any  
12                     successor regulation;

13                     “(II) is a type of business con-  
14                     cern described in section 120.110(g)  
15                     of title 13, Code of Federal Regula-  
16                     tions, or any successor regulation, ex-  
17                     cept as otherwise provided in the in-  
18                     terim final rule of the Administration  
19                     entitled ‘Business Loan Program  
20                     Temporary Changes; Paycheck Pro-  
21                     tection Program—Additional Eligi-  
22                     bility Criteria and Requirements for  
23                     Certain Pledges of Loans’ (85 Fed.  
24                     Reg. 21747 (April 20, 2020));

1                 “(III) is a type of business con-  
2                 cern described in section 120.110(i) of  
3                 title 13, Code of Federal Regulations,  
4                 or any successor regulation, except  
5                 if—

6                 “(aa) the business concern  
7                 is described in section 501(c)(6)  
8                 of the Internal Revenue Code and  
9                 that is exempt from taxation  
10                under section 501(a) of such  
11                Code (excluding professional foot-  
12                ball leagues and organizations  
13                with the purpose of promoting or  
14                participating in a political cam-  
15                paign or other activity);

16                “(bb) the business concern  
17                does not receive more than 10  
18                percent of its receipts from lob-  
19                bying activities;

20                “(cc) the lobbying activities  
21                of the business concern do not  
22                comprise more than 10 percent  
23                of the total activities of the busi-  
24                ness concern; and

1                     “(dd) the business concern  
2                     employs not more than 300 em-  
3                     ployees;

4                     “(IV) is a type of business con-  
5                     cern described in section 120.110(j) of  
6                     title 13, Code of Federal Regulations,  
7                     or any successor regulation, except as  
8                     otherwise provided in the interim final  
9                     rules of the Administration entitled  
10                     ‘Business Loan Program Temporary  
11                     Changes; Paycheck Protection Pro-  
12                     gram—Eligibility of Certain Electric  
13                     Cooperatives’ (85 Fed. Reg. 29847  
14                     (May 19, 2020)) and ‘Business Loan  
15                     Program Temporary Changes; Pay-  
16                     check Protection Program—Eligibility  
17                     of Certain Telephone Cooperatives’  
18                     (85 Fed. Reg. 35550 (June 11,  
19                     2020)) or any other guidance or rule  
20                     issued or that may be issued by the  
21                     Administrator;

22                     “(V) is a type of business con-  
23                     cern described in section 120.110(n)  
24                     of title 13, Code of Federal Regula-  
25                     tions, or any successor regulation, ex-

1                  cept as otherwise provided in the in-  
2                  terim final rule of the Administration  
3                  entitled ‘Business Loan Program  
4                  Temporary Changes; Paycheck Pro-  
5                  tection Program—Additional Eligi-  
6                  bility Revisions to First Interim Final  
7                  Rule’ (85 Fed. Reg. 38301 (June 26,  
8                  2020)) or any other guidance or rule  
9                  issued or that may be issued by the  
10                Administrator;

11                “(VI) is a type of business con-  
12                cern described in section 120.110(o)  
13                of title 13, Code of Federal Regula-  
14                tions, or any successor regulation, ex-  
15                cept as otherwise provided in any  
16                guidance or rule issued or that may  
17                be issued by the Administrator;

18                “(VII) is an entity that is orga-  
19                nized for research or for engaging in  
20                advocacy in areas such as public pol-  
21                icy or political strategy or otherwise  
22                describes itself as a think tank in any  
23                public documents;

24                “(VIII) is an entity that would  
25                be described in the provisions listed in

1                   subclauses (I) through (VII) if the en-  
2                   tity were a business concern; or  
3                   “(IX) is assigned, or was ap-  
4                   proved for a loan under section  
5                   7(a)(36) of the Small Business Act  
6                   (15 U.S.C. 636(a)(36)) with, a North  
7                   American Industry Classification Sys-  
8                   tem code beginning with 52;  
9                   “(iii) any business concern or entity  
10                  primarily engaged in political or lobbying  
11                  activities, including any entity that is orga-  
12                  nized for research or for engaging in advo-  
13                  cacy in areas such as public policy or polit-  
14                  ical strategy or otherwise describes itself as  
15                  a think tank in any public documents; or  
16                  “(iv) any business concern or entity—  
17                  “(I) for which an entity created  
18                  in or organized under the laws of the  
19                  People’s Republic of China or the  
20                  Special Administrative Region of  
21                  Hong Kong, or that has significant  
22                  operations in the People’s Republic of  
23                  China or the Special Administrative  
24                  Region of Hong Kong, owns or holds,  
25                  directly or indirectly, not less than 20

1 percent of the economic interest of the  
2 business concern or entity, including  
3 as equity shares or a capital or profit  
4 interest in a limited liability company  
5 or partnership; or

6 “(II) that retains, as a member  
7 of the board of directors of the busi-  
8 ness concern, a person who is a resi-  
9 dent of the People’s Republic of  
10 China.

11 “(3) FACILITY.—The term ‘facility’ means the  
12 facility established under subsection (b).

13 “(4) FUND.—The term ‘Fund’ means the fund  
14 established under subsection (h).

15 “(5) PARTICIPATING INVESTMENT COMPANY.—  
16 The term ‘participating investment company’ means  
17 a small business investment company approved  
18 under subsection (d) to participate in the facility.

19 “(6) PROTÉGÉ INVESTMENT COMPANY.—The  
20 term ‘protégé investment company’ means a small  
21 business investment company that—

22 “(A) is majority managed by new, inexperi-  
23 enced, or otherwise underrepresented fund man-  
24 agers; and

1               “(B) elects and is selected by the Adminis-  
2               tration to participate in the pathway-protégé  
3               program under subsection (g).

4               “(7) SMALL BUSINESS CONCERN.—The term  
5               ‘small business concern’ has the meaning given the  
6               term in section 3(a) of the Small Business Act (15  
7               U.S.C. 632(a)).

8               “(8) SMALL BUSINESS LOW-INCOME CENSUS  
9               TRACT.—The term ‘small business low-income cen-  
10               sus tract’—

11               “(A) means—

12               “(i) a covered population census tract  
13               for which the poverty rate is not less than  
14               20 percent; or

15               “(ii) an area—

16               “(I) that is not tracted as a pop-  
17               ulation census tract;

18               “(II) for which the poverty rate  
19               in the equivalent county division (as  
20               defined by the Bureau of the Census)  
21               is not less than 20 percent; and

22               “(III) for which the median in-  
23               come in the equivalent county division  
24               (as defined by the Bureau of the Cen-  
25               sus) does not exceed 80 percent of the

1                   statewide (or, with respect to a pos-  
2                   session or territory of the United  
3                   States, the possession- or territory-  
4                   wide) median income; and

5                   “(B) does not include any area or popu-  
6                   lation census tract with a median family income  
7                   that is not less than 120 percent of the median  
8                   family income in the United States, according  
9                   to the most recent American Communities Sur-  
10                  vey data from the Bureau of the Census.

11                 “(b) ESTABLISHMENT.—

12                 “(1) FACILITY.—The Administrator shall estab-  
13                 lish and carry out a facility to improve the recovery  
14                 of eligible small business concerns from the COVID–  
15                 19 pandemic, increase resiliency in the manufac-  
16                 turing supply chain of eligible small business con-  
17                 cerns, and increase the economic development of  
18                 small business low-income census tracts by providing  
19                 financial assistance to participating investment com-  
20                 panies that facilitate equity financings to eligible  
21                 small business concerns in accordance with this sec-  
22                 tion.

23                 “(2) ADMINISTRATION OF FACILITY.—The fa-  
24                 cility shall be administered by the Administrator act-

1       ing through the Associate Administrator described in  
2       section 201.

3       “(c) APPLICATIONS.—

4           “(1) IN GENERAL.—Any small business invest-  
5       ment company may submit to the Administrator an  
6       application to participate in the facility.

7           “(2) REQUIREMENTS FOR APPLICATION.—An  
8       application to participate in the facility shall include  
9       the following:

10           “(A) A business plan describing how the  
11       applicant intends to make successful equity in-  
12       vestments in eligible small business concerns.

13           “(B) Information regarding the relevant  
14       investment qualifications and backgrounds of  
15       the individuals responsible for the management  
16       of the applicant.

17           “(C) A description of the extent to which  
18       the applicant meets the selection criteria under  
19       subsection (d)(2).

20           “(3) EXCEPTIONS TO APPLICATION FOR NEW  
21       LICENSEES.—Not later than 90 days after the date  
22       of enactment of this section, the Administrator shall  
23       reduce requirements for applicants applying to oper-  
24       ate as a participating investment company under  
25       this section in order to encourage the participation

1 of new small business investment companies in the  
2 facility under this section, which may include the re-  
3 quirements established under part 107 of title 13,  
4 Code of Federal Regulations, or any successor regu-  
5 lations, relating to—

6                 “(A) the approval of initial management  
7 expenses;

8                 “(B) the management ownership diversity  
9 requirement;

10                 “(C) the disclosure of general compen-  
11 satory practices and fee structures; or

12                 “(D) any other requirement that the Ad-  
13 ministrator determines to be an obstacle to  
14 achieving the purposes described in this para-  
15 graph.

16                 “(d) SELECTION OF PARTICIPATING INVESTMENT  
17 COMPANIES.—

18                 “(1) DETERMINATION.—

19                 “(A) IN GENERAL.—Except as provided in  
20 paragraph (3), not later than 60 days after the  
21 date on which the Administrator receives an ap-  
22 plication under subsection (c), the Adminis-  
23 trator shall—

1                 “(i) make a final determination to ap-  
2                 prove or disapprove such applicant to par-  
3                 ticipate in the facility; and

4                 “(ii) transmit the determination to the  
5                 applicant in writing.

6                 “(B) COMMITMENT AMOUNT.—Except as  
7                 provided in paragraph (3), at the time of ap-  
8                 proval of an applicant, the Administrator shall  
9                 make a determination of the amount of the  
10                 commitment that may be awarded to the appli-  
11                 cant under this section.

12                 “(2) SELECTION CRITERIA.—In making a de-  
13                 termination under paragraph (1), the Administrator  
14                 shall consider—

15                 “(A) the probability that the investment  
16                 strategy of the applicant will successfully repay  
17                 any financial assistance provided by the Admin-  
18                 istration, including the probability of a return  
19                 significantly in excess thereof;

20                 “(B) the probability that the investments  
21                 made by the applicant will—

22                     “(i) provide capital to eligible small  
23                 business concerns; or

24                     “(ii) create or preserve jobs in the  
25                 United States;

1                 “(C) the probability that the applicant will  
2                 meet the objectives in the business plan of the  
3                 applicant, including the financial goals, and, if  
4                 applicable, the pathway-protégé program in ac-  
5                 cordance with subsection (g); and

6                 “(D) the probability that the applicant will  
7                 assist eligible small business concerns in achiev-  
8                 ing profitability.

9                 “(3) APPROVAL OF PARTICIPATING INVEST-  
10                 MENT COMPANIES.—

11                 “(A) PROVISIONAL APPROVAL.—

12                 “(i) IN GENERAL.—Notwithstanding  
13                 paragraph (1), with respect to an applica-  
14                 tion submitted by an applicant to operate  
15                 as a participating investment company  
16                 under this section, the Administrator may  
17                 provide provisional approval for the appli-  
18                 cant in lieu of a final determination of ap-  
19                 proval and determination of the amount of  
20                 the commitment under that paragraph.

21                 “(ii) PURPOSE.—The purpose of a  
22                 provisional approval under clause (i) is  
23                 to—

24                 “(I) encourage applications from  
25                 investment companies with an invest-

12                             “(III) allow the applicant to more  
13                             precisely request the desired amount  
14                             of commitment pending the securing  
15                             of capital from private market inves-  
16                             tors.

**22        "(e) COMMITMENTS AND SBIC BONDS.—**

23               “(1) IN GENERAL.—The Administrator may,  
24               out of amounts available in the Fund, purchase or  
25               commit to purchase from a participating investment

1 company 1 or more accruing bonds that include eq-  
2 uity features as described in this subsection.

3 “(2) BOND TERMS.—A bond purchased by the  
4 Administrator from a participating investment com-  
5 pany under this subsection shall have the following  
6 terms and conditions:

7 ““(A) TERM AND INTEREST.—

8 ““(i) IN GENERAL.—The bond shall be  
9 issued for a term of not less than 15 years  
10 and shall bear interest at a rate deter-  
11 mined by the Administrator of not more  
12 than 2 percent.

13 ““(ii) ACCRUAL OF INTEREST.—Inter-  
14 est on the bond shall accrue and shall be  
15 payable in accordance with subparagraph  
16 (D).

17 ““(iii) PREPAYMENT.—The bond shall  
18 be prepayable without penalty after the  
19 end of the 1-year period beginning on the  
20 date on which the bond was purchased.

21 ““(B) PROFITS.—

22 ““(i) IN GENERAL.—The Administra-  
23 tion shall be entitled to receive a share of  
24 the profits net of any profit sharing per-  
25 formance compensation of the participating

1                   investment company equal to the quotient  
2                   obtained by dividing—

3                         “(I) one-third of the commitment  
4                         that the participating investment com-  
5                         pany is approved for under subsection  
6                         (d); by

7                         “(II) the commitment approved  
8                         under subsection (d) plus the regu-  
9                         latory capital of the participating in-  
10                         vestment company at the time of ap-  
11                         proval under that subsection.

12                         “(ii) DETERMINATION OF PERCENT-  
13                         AGE.—The share to which the Administra-  
14                         tion is entitled under clause (i)—

15                         “(I) shall be determined at the  
16                         time of approval under subsection (d);  
17                         and

18                         “(II) without the approval of the  
19                         Administration, shall not be revised,  
20                         including to reflect subsequent dis-  
21                         tributions of profits, returns of cap-  
22                         ital, or repayments of bonds, or other-  
23                         wise.

24                         “(C) PROFIT SHARING PERFORMANCE  
25                         COMPENSATION.—

## 1                   “(i) RECEIPT BY ADMINISTRATION.—

2                   The Administration shall receive a share of  
3                   profits of not more than 2 percent, which  
4                   shall be deposited into the Fund and be  
5                   available to make commitments under this  
6                   subsection.

7                   “(ii) RECEIPT BY MANAGERS.—The  
8                   managers of the participating investment  
9                   company may receive a maximum profit  
10                  sharing performance compensation of 25  
11                  percent minus the share of profits paid to  
12                  the Administration under clause (i).

13                  “(D) PROHIBITION ON DISTRIBUTIONS.—  
14                  No distributions on capital, including profit dis-  
15                  tributions, shall be made by the participating  
16                  investment company to the investors or man-  
17                  agers of the participating investment company  
18                  until the Administration has received payment  
19                  of all accrued interest on the bond committed  
20                  under this section.

21                  “(E) REPAYMENT OF PRINCIPAL.—Except  
22                  as described in subparagraph (F), repayments  
23                  of principal of the bond of a participating in-  
24                  vestment company shall be—

1                         “(i) made at the same time as returns  
2                         of private capital; and

3                         “(ii) in amounts equal to the pro rata  
4                         share of the Administration of the total  
5                         amount being repaid or returned at such  
6                         time.

7                         “(F) LIQUIDATION OR DEFAULT.—Upon  
8                         any liquidation event or default, as defined by  
9                         the Administration, any unpaid principal or ac-  
10                         crued interest on the bond shall—

11                         “(i) have a priority over all equity of  
12                         the participating investment company; and

13                         “(ii) be paid before any return of eq-  
14                         uity or any other distributions to the inves-  
15                         tors or managers of the participating in-  
16                         vestment company.

17                         “(3) AMOUNT OF COMMITMENTS AND PUR-  
18                         CHASES.—

19                         “(A) MAXIMUM AMOUNT.—The maximum  
20                         amount of outstanding bonds and commitments  
21                         to purchase bonds for any participating invest-  
22                         ment company under the facility shall be the  
23                         lesser of—

1                         “(i) twice the amount of the regu-  
2                         latory capital of the participating invest-  
3                         ment company; or  
4                         “(ii) \$200,000,000.

5                         “(4) COMMITMENT PROCESS.—Commitments by  
6                         the Administration to purchase bonds under the fa-  
7                         cility shall remain available to be sold by a partici-  
8                         pating investment company until the end of the  
9                         fourth fiscal year following the year in which the  
10                         commitment is made, subject to review and approval  
11                         by the Administration based on regulatory compli-  
12                         ance, financial status, change in management, devi-  
13                         ation from business plan, and such other limitations  
14                         as may be determined by the Administration by reg-  
15                         ulation or otherwise.

16                         “(5) COMMITMENT CONDITIONS.—

17                         “(A) IN GENERAL.—As a condition of re-  
18                         ceiving a commitment under the facility, not  
19                         less than 50 percent of amounts invested by the  
20                         participating investment company shall be in-  
21                         vested in eligible small business concerns.

22                         “(B) EXAMINATIONS.—In addition to the  
23                         matters set forth in section 310(c), the Admin-  
24                         istration shall examine each participating in-  
25                         vestment company in such detail so as to deter-

1           mine whether the participating investment com-  
2           pany has complied with the requirements under  
3           this subsection.

4         “(f) DISTRIBUTIONS AND FEES.—

5             “(1) DISTRIBUTION REQUIREMENTS.—

6                 “(A) DISTRIBUTIONS.—As a condition of  
7                 receiving a commitment under the facility, a  
8                 participating investment company shall make  
9                 all distributions to the Administrator in the  
10                same form and in a manner as are made to in-  
11                vestors, or otherwise at a time and in a manner  
12                consistent with regulations or policies of the  
13                Administration.

14                 “(B) ALLOCATIONS.—A participating in-  
15                vestment company shall make allocations of in-  
16                come, gain, loss, deduction, and credit to the  
17                Administrator with respect to any outstanding  
18                bonds as if the Administrator were an investor.

19                 “(2) FEES.—The Administrator may not  
20                charge fees for participating investment companies  
21                other than examination fees that are consistent with  
22                the license of the participating investment company.

23                 “(3) BIFURCATION.—Losses on bonds issued by  
24                participating investment companies shall not be off-

1       set by fees or any other charges on debenture small  
2       business investment companies.

3       “(g) PROTÉGÉ PROGRAM.—The Administrator shall  
4       establish a pathway-protégé program in which a protégé  
5       investment company may receive technical assistance and  
6       program support from a participating investment company  
7       on a voluntary basis and without penalty for non-partici-  
8       pation.

9       “(h) LOSS LIMITING FUND.—

10       “(1) IN GENERAL.—There is established in the  
11       Treasury a fund for making commitments and pur-  
12       chasing bonds with equity features under the facility  
13       and receiving capital returned by participating in-  
14       vestment companies.

15       “(2) USE OF FUNDS.—Amounts appropriated  
16       to the Fund or deposited in the Fund under para-  
17       graph (3) shall be available to the Administrator,  
18       without further appropriation, for making commit-  
19       ments and purchasing bonds under the facility and  
20       expenses and payments, excluding administrative ex-  
21       penses, relating to the operations of the Adminis-  
22       trator under the facility.

23       “(3) DEPOSITING OF AMOUNTS.—

24       “(A) IN GENERAL.—All amounts received  
25       by the Administrator from a participating in-

1           vestment company relating to the facility, in-  
2           cluding any moneys, property, or assets derived  
3           by the Administrator from operations in con-  
4           nection with the facility, shall be deposited in  
5           the Fund.

6           “(B) PERIOD OF AVAILABILITY.—Amounts  
7           deposited under subparagraph (A) shall remain  
8           available until expended.

9           “(i) APPLICATION OF OTHER SECTIONS.—To the ex-  
10          tent not inconsistent with requirements under this section,  
11          the Administrator may apply sections 309, 311, 312, 313,  
12          and 314 to activities under this section and an officer, di-  
13          rector, employee, agent, or other participant in a partici-  
14          pating investment company shall be subject to the require-  
15          ments under such sections.

16           “(j) AUTHORIZATION OF APPROPRIATIONS.—There  
17          is authorized to be appropriated for the first fiscal year  
18          beginning after the date of enactment of this section  
19          \$10,000,000,000 to carry out the facility. Amounts appro-  
20          priated pursuant to this subsection shall remain available  
21          until the end of the second fiscal year beginning after the  
22          date of enactment of this section.”.

23           (b) APPROVAL OF BANK-OWNED, NON-LEVERAGED  
24          APPLICANTS.—Section 301(c)(2) of the Small Business

1 Investment Act of 1958 (15 U.S.C. 681(c)(2)) is amend-  
2 ed—

3                 (1) in subparagraph (B), in the matter pre-  
4 ceding clause (i), by striking “Within” and inserting  
5 “Except as provided in subparagraph (C), within”;  
6 and

7                 (2) by adding at the end the following:

8                 “(C) EXCEPTION FOR BANK-OWNED, NON-  
9 LEVERAGED APPLICANTS.—Not later than 45  
10 days after the date on which the Administrator  
11 receives a completed application submitted by a  
12 bank-owned, non-leveraged applicant in accord-  
13 ance with this subsection, and in accordance  
14 with such requirements as the Administrator  
15 may prescribe by regulation, the Administrator  
16 shall—

17                 “(i) review the application in its en-  
18 tirety; and

19                 “(ii)(I) approve the application and  
20 issue a license for such operation to the  
21 applicant if the requirements of this sec-  
22 tion are satisfied; or

23                 “(II) disapprove the application and  
24 notify the applicant in writing of the dis-  
25 approval.”.

1       (c) ELECTRONIC SUBMISSIONS.—Part A of title III  
2 of the Small Business Investment Act of 1958 (15 U.S.C.  
3 681 et seq.), as amended by subsection (a) of this section,  
4 is amended by adding at the end the following:

5       **“SEC. 322. ELECTRONIC SUBMISSIONS.**

6           “The Administration shall permit any document sub-  
7 mitted under this title, or pursuant to a regulation car-  
8 rying out this title, to be submitted electronically, includ-  
9 ing by permitting an electronic signature for any signature  
10 that is required on such a document.”.

11      **SEC. 7. MINORITY BUSINESS DEVELOPMENT AGENCY.**

12       (a) IN GENERAL.—There is within the Department  
13 of Commerce the Minority Business Development Agency  
14 (referred to in this section as the “Agency”).

15       (b) ASSISTANT SECRETARY.—

16           (1) IN GENERAL.—The Agency shall be headed  
17 by an Assistant Secretary of Commerce for Minority  
18 Business Development, who shall be appointed by  
19 the President.

20           (2) COMPENSATION.—The Assistant Secretary  
21 of Commerce for Minority Business Development  
22 shall be compensated at an annual rate of basic pay  
23 prescribed for level IV of the Executive Schedule  
24 under section 5315 of title 5, United States Code.

1       (c) DUTIES.—In addition to the functions, duties,  
2 and programs carried out by the Agency, as of the day  
3 before the date of enactment of this Act (including the  
4 Business Center program of the Agency), the Agency  
5 shall—

6                 (1) promote and administer programs in the  
7 public and private sectors that relate to the develop-  
8 ment of minority business enterprises; and

9                 (2) carry out programs that increase access to  
10 capital and technology for, and provide assistance  
11 with respect to the management of, minority busi-  
12 ness enterprises.

13       (d) OFFICE OF AFRICAN AMERICAN AFFAIRS.—

14                 (1) ESTABLISHMENT.—There is established  
15 within the Agency the Office of African American  
16 Affairs.

17                 (2) DUTIES.—The Office of African American  
18 Affairs established under paragraph (1) shall carry  
19 out such functions, duties, and programs as the As-  
20 sistant Secretary of Commerce for Minority Busi-  
21 ness Development determines to be appropriate.

22       (e) TECHNICAL AND CONFORMING AMENDMENT.—  
23 Section 5315 of title 5, United States Code, is amended,  
24 in the item relating to Assistant Secretaries of Commerce,  
25 by striking “(11)” and inserting “(12)”.

1   **SEC. 8. HRSA GRANT PROGRAM CONSIDERATION.**

2       In awarding grants for which faith-based entities are  
3   eligible, the Administrator of the Health Resources and  
4   Services Administration shall give special consideration to  
5   any application from an eligible entity that is located in  
6   a qualified opportunity zone (as defined in section 1400Z–  
7   1(a) of the Internal Revenue Code of 1986) or that serves  
8   a community located in such a qualified opportunity zone.

9   **SEC. 9. EXTENSION OF SUBSIDY FOR CERTAIN LOAN PAY-**

10                   **MENTS.**

11       (a) IN GENERAL.—Section 1112(c)(1) of the CARES  
12   Act (15 U.S.C. 9011(c)(1)) is amended—

13                  (1) in subparagraph (A), by striking “6-month”  
14   and inserting “12-month”;

15                  (2) in subparagraph (B), by striking “6-month”  
16   and inserting “12-month”; and

17                  (3) in subparagraph (C)—

18                      (A) by striking “6 months” and inserting  
19   “12 months”; and

20                      (B) by striking “6-month” and inserting  
21   “12-month”.

22       (b) EFFECTIVE DATE.—The amendments made by  
23   subsection (a) shall take effect as if included in the enact-  
24   ment of section 1112 of the CARES Act (15 U.S.C.  
25   9011).

